STATE OF MICHIGAN

RECORDS MANAGEMENT MANUAL FOR LOCAL GOVERNMENTS

Records Management Services

Technology, Management & Budget

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Laws:

- M.C.L. 15.231-15.232 (Freedom of Information Act, Definitions)
- M.C.L. 18.1284-1292 (Management and Budget Act, Records Management)
- M.C.L. 399.809-812 (Michigan History Center Act)
- M.C.L. 750.491 (Penal Code, Public Records)

Note: The Michigan Complied Laws are available online.

Introduction

Public records are the property of the people of the State of Michigan. As a result, Michigan government agencies are responsible for ensuring that the public records they create and receive while conducting public business are retained and destroyed in accordance with Michigan law. Records Management Services is responsible for assisting local government agencies with addressing records management and preservation issues.

While there are various laws that require Michigan government agencies to employ sound records management practices, agencies often find that good records management is good business. Almost every business process employs records, and agencies need to ensure that these records are managed in an effective and an efficient manner. Good records management can save agencies time and space (resources that are frequently in short supply for most offices).

Records Management Services can help local government agencies:

- Create records retention and disposal schedules for local government offices.
- Analyze the need for microfilm, microfiche, digital imaging systems and other records storage media.
- Follow regulations for reproducing public records.
- Determine the best method of records disposal.
- Learn about emerging records management issues associated with computer technology.
- Establish proper storage space for local government records.

Local governments seeking assistance with their records management and preservation concerns may contact:

Records Management Services
Department of Technology, Management and Budget
3400 N. Grand River Ave.
Lansing, Michigan 48909
(517) 335-9132 (phone)
recordscenter@michigan.gov
https://www.michigan.gov/recordsmanagement

Public Records

The Michigan Freedom of Information Act (FOIA) (Public Act 442 of 1976, as amended), defines public records as recorded information "prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created."

Two laws provide that local government records belong to the people of Michigan.

A. Section 491 of the Michigan Penal Code (MCL 750.491) declares that all official books, papers, and records created by (or received in) any office or agency of the political subdivisions of the state of Michigan are considered public property, belonging to the people of the state.

B. Section 5 of the Michigan History Center Act (MCL 399.811) provides that all records required to be kept by local public officers in the discharge of their duties, records required to be filed in local public offices, and records which represent memorials of transactions of local public officers, are considered to be property of this state.

Section 491 of the Penal Code (MCL 750.491) declares the improper disposal of local government records to be a crime. This law states as follows: "Any person who shall willfully carry away, mutilate or destroy any of such books, papers, records or any part of the same, and any person who shall retain and continue to hold the possession of any books, papers, or records, or parts thereof, belonging to the aforesaid offices and shall refuse to deliver up such books, papers, records, or parts thereof to the proper officer having charge of the office to which such books, papers, or records belong, upon demand being made by such officer, or, in cases of a defunct office, the Michigan historical commission, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than $1,000.00."

Retention and Disposal Schedules

Michigan law requires that all records be listed on an approved Retention and Disposal Schedule that identifies how long the records must be kept, when they may be destroyed, and when certain records can be sent to the Archives of Michigan for permanent preservation. All Retention and Disposal Schedules must be formally approved by the Records Management Services (DTMB), the Archives of Michigan (DTMB) and the State Administrative Board. Retention periods listed on approved Retention and Disposal Schedules have the force of law. There are two types of schedules that local government agencies may use:

- **General Schedules:** cover records that are common to a particular type of local government agency, such as a county clerk or a school district. General schedules may not address every single record that a particular agency may have in its possession. General schedules do not mandate that any of the records listed on the schedule be created. However, if they are created in the normal course of business, the schedule establishes a minimum retention period for them.

- **Agency-Specific Schedules:** cover records that are unique to a particular local government agency. Agency-specific schedules always override general schedules if a record is covered on both. Agency-specific schedules only address the records of the agency named on the schedule and may not be used by another agency. The retention periods are absolute minimums and maximums.

Note: Agencies must immediately cease the destruction of all relevant records (even if destruction is authorized by an approved Retention and Disposal Schedule) if they receive a FOIA request, if they believe that an investigation or litigation is imminent, or if they are notified that an investigation or litigation has commenced. If relevant records exist in electronic formats (such as email, digital images, word processed documents, databases, backup tapes, etc.), the agency may need to notify its information technology staff. Failure to cease the destruction of relevant records could result in penalties.

RECORDS AND RECORDS SERIES

Retention and Disposal Schedules are generally used to identify retention requirements for records series, but they may also be used to identify specific records.

A "*records series*" is a logical grouping of related records normally filed together to support a specific business process. Whereas a "*record*" is an individual piece of recorded information. For example, the January 2003 minutes of the meeting of the Michigan Historical Commission is an individual record. However, all minutes of all meetings held by the Michigan Historical Commission, organized chronologically with meeting notices, agendas and supporting documentation, constitute a records series.

GENERAL RETENTION SCHEDULES

The general retention schedules that are approved for use by local governments are published online.

AGENCY-SPECIFIC SCHEDULES

Local governments must create and submit agency-specific schedules to cover any records that are not listed on a general schedule. If the local government needs a different retention period than the one listed on a general schedule, they can submit a specific schedule for approval. The specific schedule will override the general schedule. Below are the instructions for creating specific schedules.

1. Conduct an inventory of all records or records series (both paper and electronic) that are created or maintained by the agency.
   - It helps to select a room or cubicle, and then survey each drawer of each file cabinet or shelving unit to determine its contents.
   - While conducting the inventory, it would be a good idea to ensure that all drawers, shelves, file folders, boxes, etc. are properly labeled.
   - Identify any databases, spreadsheets, etc. that are used to support business processes or to help access paper files (such as indexes).

2. Create a list of the record series identified as a result of the inventory and include brief description of the function and content of each series.[1] Try to answer the following questions:
   - Why is the record series created?
   - Does a law mandate the creation of the records series? If so, which law?
   - How is the records series created?
   - How are the records organized? (alphabetically, chronologically, etc.)
   - What format(s) does the records series exist in? (paper, photographs, maps, drawings, microfilm, digital images, e-mail, database, etc.)
   - What information can be found on a particular record? (names, dates, social security numbers, addresses, etc.)
   - Does the record series contain confidential information?
   - When did the agency first start to create/receive this record series? Is the record series still created?
   - Do other agencies maintain the same exact records series? If so, who? Why?

3. Establish retention periods for each records series based upon the following:
   - Statutorily required retention period, if any
   - Statute of limitation requirements
   - Audit requirements
   - Administrative need

[1] Records series descriptions are essential for helping people identify and locate the records in their office.

- Potential historical value

4. Fill out the Record Inventory form with the proposed record series. See instructions and example.

5. Fill out the Local Government Contact Information form. Send both the completed *Record Inventory* **and** *Local Government Contact Information* forms to DTMB Records Management Services via email at recordscenter@michigan.gov for review.

6. When the draft is ready for approval, DTMB Records Management Services will use the State of Michigan eSignature tool to send the schedule to the agency representative for signing. The agency contact person will be notified when the schedule is approved.

7. Distribute the newly approved schedule to affected employees and establish a routine for disposing the records according to the provisions of the schedule.

DEFINITIONS OF RETENTION CODES

The **retention codes** that appear on some records Retention and Disposal Schedules are used to establish how long records are retained by the creating agency before they are destroyed (or transferred to the Archives of Michigan for permanent retention). In addition to the retention code, an amount of time (such as years and/or months) can be used in the calculation. Years are expressed as whole numbers, and months are expressed as fractions. For example, the fraction "0/6" would represent 6 months. The retention code plus the amount of time results in a mathematical formula for calculating a destruction date.

ACT = Active
An active code is usually assigned to records that are case or project related. The records are retained “until the case or project is closed.” This code can also be applied to records where a subjective decision is needed to determine when the records become inactive, as with a subject file. The record is retained “until it is determined to be inactive.” The retention period is applied when the ACT condition has been met. For instance, a case file might be retained until the case is closed (ACT) plus five years.

CR = Creation
A creation code is assigned to records when a definitive retention period can be assigned. The retention period is usually based on a calendar year and where there are no conditions that must be met. For instance, correspondence has a two-year retention period. The retention period begins from the date the correspondence is created or received.

EXP = Expiration
An expiration code is typically assigned to contracts, grants or other types of agreements that must be retained until an expiration date or other legal condition has

been met. For instance, contracts may be held until contract expiration (EXP) plus six years.

FY = Fiscal Year
A fiscal year code is similar to a CR code. The code is assigned to records when a definitive retention period can be assigned, however the retention is based on a fiscal year rather than a calendar year. This retention code is usually assigned to accounting records and their supporting documentation.

SUP = Superseded
A superseded code is typically assigned to records that are updated or revised at various times during the records lifetime. Examples would include policies or procedures. As a policy is updated and the old version is replaced or superseded, only the current version is needed.

EVT = Event
Event codes are assigned to records when a retention period is based on a future action or condition. We use this code when we know that a future action or condition will be met, but we don't know exactly when it will happen. For instance, deeds are retained to document the ownership of land by the State of Michigan. If and when the State of Michigan divests itself of that land, a retention period can be applied to the records. The records will be retained until the State of Michigan sells the land (EVT).

DISP = Immediate Disposal
Immediate Disposal is a retention code that is used when an agency requires an authorization to destroy obsolete records upon the approval of their records Retention and Disposal Schedule. Once the schedule is approved the agency has the legal authority to destroy the obsolete records.

PERM = Permanent
These records are not authorized for destruction at any point in time and will be retained in the custody of the creating agency.

Disposition of Public Records

Retention and Disposal Schedules indicate when and how a public record may be disposed of. There are two types of record disposition: destruction, or permanent preservation and public access through a transfer to the Archives of Michigan.

CONFIDENTIAL RECORDS DESTRUCTION

Some public records contain sensitive or confidential information. These records should not be placed in a regular trash or recycle bin when they are eligible to be destroyed. It is important that government agencies ensure that these records be destroyed in a manner that prevents the inappropriate release of the information.

SUSPENDING DESTRUCTION

Agencies and their employees must immediately cease the destruction of all relevant records (even if destruction is authorized by an approved Retention and Disposal Schedule) if they receive a FOIA request, if they believe that an investigation, audit or litigation is likely to happen; or if they are notified that an investigation, audit or litigation has started. If relevant records exist in electronic formats (such as email, digital images, word processed documents, databases, etc.), the agency must notify their information technology staff for assistance. Failure to cease the destruction of relevant records could result in penalties. If an employee does not know whether they have relevant records, they should discuss the issue with their supervisor.

Legal counsel is responsible for notifying their client when the legal hold is lifted. At that point, the records can be disposed of in compliance with their approved retention period. Copies of records may be found in the litigation case files. Those copies should be retained according to the retention period for the case files. The official version of a record that was used as evidence should not be retained as part of the case file. Official records should be returned by the legal counsel to the agency that owns the records when the litigation ends.

Transferring Records to the Archives of Michigan

Local government agencies cannot relinquish legal custody of their public records without contacting the Archives of Michigan. It is illegal to sell the official copy of a public record. Per MCL 399.811, the Archives of Michigan has sole discretion on the disposition of non-active or non-permanent records. Local governments need to contact the archives prior to making any other storage arrangements. Please contact the Archives of Michigan at govarchives@michigan.gov to initiate a records transfer.

Local governments that are ready to transfer records (including electronic records) to the Archives of Michigan need to complete the "Archives Transfer Form." Be sure to include a complete description of the records, the inclusive dates for the records, and the record series number from the Retention and Disposal Schedule on the form.

The Archives Transfer Form may be obtained by contacting the Archives of Michigan at 517-335-2576 or govarchives@michigan.gov. The completed form must be approved by the Archives of Michigan before the records are transferred. To arrange approval of the transfer, email the archives at govarchives@michigan.gov. An archivist will review the form and work with the agency on transfer logistics after it is approved.

Please maintain the order of the original filing system when packing records for transfer to the Archives. Only pack the records in boxes with the dimensions 15" x 12" x 9.75", because other boxes will not fit on the shelves.

To properly seal the box:
1. Fold the back flap first, then fold the side flaps, and fold the front flap on top.
2. Place the tape across the front flap to seal the box.
3. The top and sides of the box should not bulge.

Additional information about the Archives of Michigan is available online at www.michigan.gov/archivesofmichigan.

Managing Electronic Records

Public records are created in a variety of formats, and increasingly they are created using computers. Common computer formats include word processed documents, electronic mail (email), digital images, databases, spreadsheets, etc. These electronic records are dependent upon specific computer technology (hardware and software) to remain accessible. Government agencies that create electronic records are responsible for ensuring that these records remain accessible for their entire retention period, even if the original technology becomes obsolete. However, this can be a significant challenge that requires careful planning, because the average lifespan of most computer technology is less than 10 years.

Government agencies cannot ignore their responsibility to keep electronic records accessible and usable. Agencies will need to migrate their electronic records to new technology on a regular basis, until the record's retention period expires. Failing to migrate electronic records can be problematic, because new generations of technology are not always compatible with those they are replacing. Unfortunately, migration of electronic records can be very time-consuming and expensive; and for long-term electronic records, it may need to be repeated many, many times.

There are two types of electronic records that appear to cause agencies the most concern, email and digital images. Guidelines about these two topics are available online.

Disaster Preparedness and Response

Agencies are responsible for managing and protecting records they own and keeping them accessible and usable for their entire retention period.

Agencies should identify which of their records are vital and need to be protected in case a disaster occurs. A disaster plan is helpful to define how the agency will try to prevent disasters and respond to disasters.

If government records are completely destroyed during a disaster and are not recoverable, the agency should document which records were destroyed, and when/how the destruction occurred. This information should be kept until the destroyed records' retention period is met.

If records are damaged (but not destroyed) during a disaster, the agency is responsible for recovering those records that have not met their retention period yet. This may require the services of a vendor that specializes in disaster response or record restoration. The agency is responsible for all restoration and recovery costs. An online guide is available to assist with disaster preparedness and response.

Proper Storage of Records

Information can be recorded on a variety of storage media including paper, photographs, audio/visual media, microfilm, magnetic tape cartridges, optical disks, etc. All of these recording media are unstable and are capable of losing the information stored on them. Recording media require specific environmental conditions if they contain information that needs to be retained for a significant length of time. Proper storage conditions are especially important for records with permanent or archival value. Extreme environmental conditions including heat, cold and dampness will destroy records very quickly. As a result, the facility used to store valuable records should be designed to provide an environment that will promote the preservation of the media and the information therein. Some agencies have created in-house storage vaults for their valuable records, others have selected outside facilities for their storage needs. Regardless of where valuable records are stored, proper environmental conditions are essential if the records are to be preserved.

The following environmental conditions should be addressed when selecting or designing a storage facility for records:

1. **Size:** Can the facility hold the volume of records to be stored, as well as future accumulations?

2. **Location:** Where is the facility in relationship to the people who need to access the records? How easy is it to retrieve records from the storage facility?

3. **Security:** How is access granted to the records? What locks or security devices protect the records? Who has access to the storage area?

4. **Fire Prevention and Suppression System:** What fire alarms exist? Is the fire equipment inspected annually? Is there an emergency plan; are emergency exits clearly marked and accessible? Is there a water sprinkler or chemical suppression system? Are pipes that contain running water located in a place where they could leak on the records? Are class A/B/C fire extinguishers in place?

5. **Temperature and Humidity Controls:** If the records need to be maintained in ideal environmental conditions, what system is in place to create and monitor the environment?

6. **Pests:** Has the facility had trouble with bugs and rodents? What precautions are in place to prevent infestation; how is infestation treated; are new shipments screened for pests?

RECOMMENDED ENVIRONMENTAL CONTROLS FOR PERMANENT RECORDS

The control of temperature and relative humidity is often cited as the initial step in the environmental protection of records with permanent or archival value. The following environmental and storage conditions are recommended for records that need to be retained for long periods of time:

Storage Media	Temperature	Relative Humidity	Storage Containers
Paper (preferably acid-free paper), bound or unbound records	68° F	55%	Baked enamel steel shelves or cabinets. Acid-free boxes, envelopes, folders, etc.
Magnetic recording media, including audio/video tapes, and computer tapes	65° F	35-45%	Shelve vertically, in dust-proof containers
Microforms, including film, fiche, aperture cards, etc. (master negatives only)	68° F	45-55%	Shelve vertically. Boxes/reels should be stored in non-ferrous metal or inert plastic.
Photographs (black and white, color)	68° F	35-40%	Individually store in acid-free, seamless envelopes.
Negatives (safety-based film)	68° F	45-55%	Individually store in acid-free, seamless envelopes. (Do not store negatives with prints)
Slides	68° F	45-55%	Store vertically, in an inert plastic container or carousel.
Optical disks	65-75° F	30-50%	Store each optical storage disk in a protective cartridge and shelve vertically.
Combined media	68-72° F	45-49%	Store each media type separately.

The most important environmental consideration is to protect against daily fluctuations in temperature and relative humidity. The above noted conditions should not vary more than 2-3% during any 24-hour period.